

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MICHAEL ANGELO BURNETT,

Plaintiff,

v.

Case No. 2:05-cv-12
HON. R. ALLAN EDGAR

PATRICIA CARUSO, et al.,

Defendants.

OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge on August 25, 2005. The Report and Recommendation was duly served on the parties. The Court received objections from Defendant Jakubiszyn. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made. The Court now finds the objections to be without merit.

As noted in the report and recommendation, Plaintiff claims that Defendant Jakubiszyn denied him medical care for urgent symptoms, including coughing up blood, based on false entries in this medical record. Plaintiff claims that Defendant Jakubiszyn falsified the medical record to show that Plaintiff refused his appointment. In his objections, Defendant Jakubiszyn refers to Plaintiff's complaint and states that the October 30, 2003, health care request specified that Plaintiff wished to be seen by a doctor in two days at his regular appointment. Defendant Jakubiszyn contends that he scheduled an appointment for Plaintiff on November 3, 2003, as a result of that

request, and that the reference to “November 30, 2003,” in Plaintiff’s complaint was a typographical error. However, as noted above, Plaintiff claims that Defendant Jakubiszyn falsely recorded that Plaintiff had refused his appointment on November 3, 2003, despite the fact that Plaintiff was complaining of symptoms of Gastroesophageal Reflux Disease, which included coughing up blood. The fact that Defendant Jakubiszyn denies such conduct merely indicates the existence of a genuine issue of material fact. Therefore, Defendant Jakubiszyn’s objections are without merit.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge is approved and adopted as the opinion of the court and Defendant Jakubiszyn’s request for summary judgment will be denied.

Dated: *September 28, 2005*

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE